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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DEANE JR, WILLIAM J

ART UNIT

PAPER NUMBER

2642

DATE MAILED: 12/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/783,191

Applicant(s)

BAUER ET AL.

Examiner

William J Deane

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 35 – 41 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, these claims are ambiguous in light of the specification. There are two places that have the word segment. At Page 12, line 22, a voicemail segment is recited and on page 13, line 4, a half-circuit segment is recited. Complicating the issue further is the recitation of a teleconferencing bridge is recited on page 12, line 25. A conferencing bridge is also used to bridge call segments. Perhaps applicants meant segments of a packet header. It is not understood at this time what applicants mean by "segments". Therefore, claims 35 – 41 will not be further treated on the merits.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 – 6 and 11 - 15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, there is no antecedent basis for "said predefined condition".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7 - 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,546,395 (Sharma et al.).

Sharma et al. teach a method for dynamically adjusting the bandwidth (Col. 1, line 67 – Col. 2, line 4) comprising the steps of selecting an encoding scheme note compressions scheme (Col. 1, lines 52 – 57 and Col. 2, lines 21 – 24), monitoring one or more conditions on the network (inherent) and selecting a new encoding scheme (Col. 2, lines 21 – 22).

With respect to claim 7, such is inherent

With respect to claims 8 – 9 note the negotiation handshake (Col. 2, lines 22 – 24).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 – 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. in view of U.S. Patent No. 5,926,483 (Javitt)

With respect to claims 2 – 4, Sharma et al. teach the claimed method except for monitoring of traffic, however Javitt teaches such (see Abstract). It would have been obvious to one of ordinary skill in the art to have incorporated such traffic monitoring as taught by Javitt into the Sharma et al. as such would only entail the substitution of one monitored parameter for another.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. in view of U.S. Patent No. 5,070,527 (Lynn).

Sharma et al. teach the claimed method except for the predetermined time threshold. Lynn teaches such (Abstract). It would have been obvious to one of ordinary skill in the art to have incorporated such predetermined threshold as taught by Lynn into the Sharma et al. as such would only entail the substitution of one monitored parameter for another.

The system claims 10 – 18 mirror the method claims 1 – 9 and would be rejected under a similar as shown above.

Method claims 19 – 26 would be rejected on similar logic as shown above.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent No. 6,445,697 (Fenton) – note compression of audio data streams;

U.S. Patent No. 6,356,545 (Vargo et al.) – note dynamically varying codec;

U.S. Patent No. 6,175,856 (Riddle) – note compression selection during  
teleconference setup;

U.S. Patent No. 5,761,634 (Stewart et al.) – note Abstract;

U.S. Patent No. 5,729,532 (Bales et al.) – note Figs.;


U.S. Patent No. 5,701,302 (Geiger) – note companding;

U.S. Patent No. 5,574,861 (Lorving et al.) – note dynamic allocation of  
channels; and

EP Patent No. 1 024 638 (Shaffer et al.) – note abstract.

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Bill Deane whose telephone number is (703) 306-5838.  
In addition, facsimile transmissions should be directed to Bill Deane at facsimile number  
(703) 872-9314.

01DEC02

  
**WILLIAM J. DEANE, JR.**  
**PATENT EXAMINER**